

ACCOUNTANCY EXAMINING BOARD[193A]

Notice of Intended Action

Proposing rule making related to denial of licensure and providing an opportunity for public comment

The Accountancy Examining Board hereby proposes to amend Chapter 3, “Certification of CPAs,” Chapter 4, “Licensure of LPAs,” Chapter 5, “Licensure Status and Renewal of Certificates and Licenses,” Chapter 6, “Attest and Compilation Services,” Chapter 7, “Certified Public Accounting Firms,” Chapter 8, “Licensed Public Accounting Firms,” Chapter 12, “Fees,” Chapter 13, “Rules of Professional Ethics and Conduct,” and Chapter 14, “Disciplinary Authority and Grounds for Discipline,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 542.4 and 546.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2020 Iowa Acts, House Files 2389 and 2627.

Purpose and Summary

The proposed amendments update the circumstances under which a license may be denied. They also provide for a predetermination process, prior to an application submittal, as to whether a criminal conviction may prevent licensure.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. It is unknown how many individuals would seek an eligibility determination due to a criminal conviction prior to applying, which would result in collection by the Professional Licensing Bureau of a \$25 fee to recover the associated costs as set forth in 2020 Iowa Acts, House File 2627.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs as individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 193—Chapter 5.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on January 21, 2021. Comments should be directed to:

Robert Lampe
Iowa Accountancy Examining Board
200 East Grand Avenue, Suite 350
Des Moines, Iowa 50309
Email: robert.lampe@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 21, 2021
10 to 11 a.m.

Professional Licensing Bureau Offices
200 East Grand Avenue, Suite 350
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.1(2) as follows:

3.1(2) An application may be denied if the applicant:

a. Has Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, has been convicted of a crime described in Iowa Code section 542.5(2);

b. to e. No change.

f. Demonstrates a lack of moral character in a manner which the board reasonably believes will impair the applicant's ability to practice public accountancy in full compliance with the public interest and state policies described in Iowa Code section 542.2. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination. However, the board shall not deny an application on the basis of an arrest that was not followed by a conviction based on a finding that because of that arrest the applicant lacks moral character.

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while providing the public any of the services described in Iowa Code section 542.3(20);

(2) Fraud or dishonesty while advertising or selling goods or services to the public;

(3) Willful or repeated failure to timely file tax returns or other mandatory submittals due a governmental body;

(4) Fiscally irresponsible behavior in the absence of mitigating circumstances;

g. Is subject to discipline on any ground that would form the basis for discipline against a licensee;
or

h. Has had a practice privilege revoked in this or another jurisdiction.

ITEM 2. Amend subrule 3.4(3) as follows:

3.4(3) A Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, a candidate for the examination who has been convicted in a court of competent jurisdiction in this state, or another state, territory, or a district of the United States, or in a foreign jurisdiction of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or dishonesty may be denied admittance to the examination by the board on the grounds of the conviction. For purposes of this subrule, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred

judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

ITEM 3. Amend subrule 4.1(2) as follows:

4.1(2) An application may be denied if the applicant:

a. Has Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, has been convicted of a crime;

b. to e. No change.

f. Demonstrates a lack of moral character in a manner that the board reasonably believes will impair the applicant's ability to practice public accountancy in full compliance with the public interest and state policies described in Iowa Code section 542.2. While it is not possible to itemize all actions or behaviors which may demonstrate a lack of moral character, the following nonexclusive list of factors will guide the board in making its determination. However, the board shall not deny an application on the basis of an arrest that was not followed by a conviction based on a finding that because of that arrest the applicant lacks moral character.

(1) A pattern and practice of making false or deceptive representations, or of omitting material facts, while providing any accounting services to the public;

(2) Fraud or dishonesty while advertising or selling goods or services to the public;

(3) Willful or repeated failure to timely file tax returns or other mandatory submittals due a governmental body;

(4) Fiscally irresponsible behavior in the absence of mitigating circumstances; or

g. Is subject to discipline on any ground that would form the basis for discipline against a licensee.

ITEM 4. Amend subrule 4.2(3) as follows:

4.2(3) A Subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, a candidate for the examination who has been convicted in a court of competent jurisdiction in this state, or another state, territory, or a district of the United States, or in a foreign jurisdiction of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or dishonesty may be denied admittance to the examination by the board on the grounds of the conviction. For purposes of this subrule, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

ITEM 5. Amend subrule 5.1(1), introductory paragraph, as follows:

5.1(1) Licenses issued by the board pursuant to Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule, may be in active, inactive, or lapsed status, as follows:

ITEM 6. Amend rule 193A—5.3(542) as follows:

193A—5.3(542) License renewal. Licenses issued by the board pursuant to Iowa Code section 542.6 (CPA certificates), 542.8 (LPA licenses), or 542.19 (CPA certificates by substantial equivalency), or any other applicable law or rule, shall be renewed on an annual basis and shall expire on June 30 of each year. Licenses shall be renewed through the online renewal process. An annual renewal fee will be charged.

ITEM 7. Amend paragraph **6.3(3)"a"** as follows:

a. Applicants may apply for attest qualification when initially applying for a certificate as an Iowa CPA under Iowa Code section 542.6 or when applying for reciprocal Iowa certification under Iowa Code section 542.19 or any other applicable law or rule.

ITEM 8. Amend subrule 6.4(1) as follows:

6.4(1) Only a CPA licensed by the board under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed by the board under Iowa Code section 542.8, or any other applicable law or rule; or a person exercising a practice privilege under Iowa Code section 542.20

shall issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa.

ITEM 9. Amend paragraph **7.2(3)“c”** as follows:

c. Based on a regulatory or disciplinary action or to the extent applicable, subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, criminal conviction described in subrules 7.3(14) and 7.3(15) against any of the firm’s licensed or unlicensed owners.

ITEM 10. Amend rule 193A—8.1(542) as follows:

193A—8.1(542) Initial permit to practice.

8.1(1) No change.

8.1(2) The application shall be completed and submitted through the online application process and shall provide sufficient information from which the board can determine that a simple majority of owners hold licenses issued by the board under Iowa Code section 542.8 or certificates issued by the board under Iowa Code section 542.6 or 542.19, or any other applicable law or rule, or are eligible to practice under practice privilege pursuant to Iowa Code section 542.20, or otherwise hold a license or certificate to practice public accounting in another state. At least one owner must be licensed under Iowa Code section 542.8.

8.1(3) The application shall list the name, licensure, and contact information for each licensee or practice privilege practitioner who is responsible for supervising compilation services and who signs or authorizes someone to sign the accountant’s report on financial statements on behalf of the firm. The application shall affirm that any licensee listed meets the competency requirements set forth in SSARS and holds a valid license or certificate issued by the board under Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule, or is eligible to exercise a practice privilege under Iowa Code section 542.20.

8.1(4) No change.

8.1(5) Persons in charge of an office located in Iowa shall be licensed in Iowa under Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule.

8.1(6) The application shall designate an individual who holds a valid license or certificate issued by the board under Iowa Code section 542.6, 542.8, or 542.19, or any other applicable law or rule, or who is eligible to exercise a practice privilege under Iowa Code section 542.20 as the person responsible for ensuring that the firm has complied with all of the requirements for a permit to practice, and shall provide contact and licensure information for such individual.

8.1(7) to 8.1(11) No change.

8.1(12) An initial or renewal application for a firm permit to practice may be denied:

a. Upon any ground that would form a basis for discipline against the firm pursuant to Iowa Code section 542.10 or rule 193A—14.3(17A,272C,542) including, but not limited to, the regulatory and disciplinary actions and, to the extent applicable, subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, criminal convictions described in subrules 8.1(9) and 8.1(10);

b. Based on the firm’s failure to comply with the requirements of Iowa Code section 542.8 including, but not limited to, a failure to make the designations described in subrules 8.1(3), 8.1(4), and 8.1(6), or a failure to sustain the simple majority of ownership required by Iowa Code section 542.8(12)“a”; or

c. Based on a regulatory or disciplinary action or, to the extent applicable, subject to the limitations and processes set forth at Iowa Code section 272C.15 and corresponding implementing rules located at 193—Chapter 15, criminal conviction described in subrules 8.1(9) and 8.1(10) against any of the firm’s owners (e.g., partners, shareholders, or members).

ITEM 11. Amend rule 193A—12.1(542) as follows:

193A—12.1(542) Required fees. The following is a schedule of the fees for examinations, certificates, licenses, permits and renewals adopted by the board:

Initial CPA examination application:	
Paid directly to CPA examination services	not to exceed \$1500
Reexamination:	
Paid directly to CPA examination services	not to exceed \$1500
Original issuance of CPA certificate or LPA license by examination (fee includes wall certificate)	\$100
Original issuance of CPA certificate by reciprocity or substantial equivalency	\$100
CPA wall certificate or LPA license issued by reciprocity or substantial equivalency	\$50
Replacement of lost or destroyed wall CPA certificate or LPA license	\$50
Original issuance of attest qualification	\$100
Annual renewal of CPA certificate or LPA license—active status	\$100
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—active status	\$25
Annual renewal of CPA certificate or LPA license—inactive status	\$50
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—inactive status	\$10
Penalty for failure to comply with continuing education requirements	\$50 to \$250
Original issuance of firm permit to practice	\$100
Annual renewal of firm permit to practice	\$100
Reinstatement of lapsed CPA certificate or LPA license	\$100 + renewal fee + \$25 per month of expired registration
Reinstatement of lapsed firm permit to practice	\$100 + renewal fee + \$25 per month of expired registration
Interstate Transfer Form	\$25
<u>License predetermination fee</u>	<u>\$25</u>

ITEM 12. Amend subrule 13.5(1) as follows:

13.5(1) Who can perform. Only a CPA licensed under Iowa Code section 542.6 or 542.19, or any other applicable law or rule; an LPA licensed under Iowa Code section 542.8, or any other applicable law or rule; or a CPA exercising a practice privilege under Iowa Code section 542.20 shall issue a report in standard form upon a compilation of financial information or otherwise provide compilation services in Iowa or for a client with a home office in Iowa. (Refer to rule 193A—6.4(542).)

ITEM 13. Amend subrule 14.3(11) as follows:

14.3(11) Conviction of a crime. Conviction, in this state or any other jurisdiction, of any felony, or of any crime described in Iowa Code section 542.5(2). A certified copy of the record final order or judgement of conviction or plea of guilty in this state or in another jurisdiction shall be conclusive evidence of the conviction. “Conviction” shall include any plea of guilty or nolo contendere, including Alford pleas, or finding of guilt whether or not judgment or sentence is deferred, withheld, not entered, or suspended, and whether or not the conviction is on appeal. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction shall be vacated. A conviction qualifies as a felony offense if the offense is designated as a felony in the jurisdiction in which

the conviction occurred; or had the offense been committed in this state the offense would be a felony, without regard to its designation elsewhere. Notwithstanding the foregoing, a conviction may be grounds for revocation or suspension only if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession. An offense directly relates to the profession if either (1) the actions taken in furtherance of an offense are actions customarily performed within the scope of practice of the profession, or (2) the circumstances under which an offense was committed are circumstances customary to the profession.